

**Town of Milford
Zoning Board of Adjustment Minutes
February 20, 2014
Jill Lazzaro for FLIP Home Décor
Variance
Map 25, Lot 22**

Present: Fletcher Seagroves, Chairman
Zach Tripp
Kevin Taylor
Michael Thornton
Joan Dargie, Alternate

Absent: Laura Horning

Secretary: Peg Ouellette

Case #2014-04

The applicant, Jill Lazzaro for FLIP Home Décor by Silly Jilly Designs, along with 326 Nashua St., LLC, owner of Map 25, Lot 22 located at 139 Union Sq., in the Commercial-Oval Sub-District, is requesting a Variance from Article VII, Section 7.06:E.2 to allow an 11.67 SF exterior sign where the maximum size allowed is 8.25 SF.

Minutes were approved and signed on April 3, 2014.

Fletcher Seagroves, Chairman, opened the meeting, introduced the Board members and explained the procedures and read the notice of hearing for Case # 2014-04 into the record. F. Seagroves stated that J. Dargie was abstaining from voting, since her brother owned the building in question. F. Seagroves informed the applicant that, since there were only four voting members present and three affirmative votes were needed for approval, she could choose to sign a waiver stating that if denied she would not come back using the lack of a full Board as a reason for appeal. The applicant agreed to proceed and signed the waiver for a decision by four members rather than a full five-member board. The list of abutters was read and no abutters were present. Jill Lazzaro, owner of FLIP Home Décor, was present.

J. Lazzaro presented her case.

K. Taylor asked if it is the existing sign in the window.

J. Lazzaro said yes, it was.

F. Seagroves asked why that particular sign.

J. Lazzaro said she had a hard time fitting "Home Décor" on the sign along with the business name. That is what fit, it's a handmade sign.

F. Seagroves said he had driven by and seen the sign in the window; he didn't realize it was going up outside because it fits in the window.

J. Lazzaro said she didn't want it in the window because she wants to put merchandise there.

M. Thornton commented that he went by and couldn't see past the things hanging there.

J. Lazzaro agreed and said if she had furniture, etc. in there, people would know what type of merchandise she had.

Z. Tripp asked the location of the sign and if the height of 2.5 ft was contained within the top of the wood frame and the bottom.

J. Lazzaro said it would be centered over the window and the 2.5 ft. would be just below the frame. It would not extend over that.

Z. Tripp asked if she planned on lighting it.

J. Lazzaro said unless the landlord wanted to add anything, it would not be lit.

F. Seagroves said he did some quick math and it was stated she was only allowed 8.25 SF, but he came up with about 9 SF. She is requesting eleven (11) SF.

K. Taylor commented that the realtor, Carr's, sign was much larger than that and has been there for years.

F. Seagroves said that was probably there before the zoning. Looking at it, he didn't see that hers would be that big.

Z. Tripp asked whether it would only be on the front side of the property.

J. Lazzaro said yes.

There were no additional comments or questions from the Board.

F. Seagroves opened the public portion of the meeting; there being none, the public portion of the meeting was closed.

J. Lazzaro went through the criteria for the variance.

1. Granting the variance would not be contrary to the public interest because:

It is within reasonable size to the building. The sign will in no way impact public health or safety and will better identify the business adding to a stronger downtown business community.

2. The use is not contrary to the spirit of the ordinance because:

The sign is tactful and appealing. Signage in the Oval Subdistrict is intended to be compatible with building materials and adjacent architecture. The size and materials for this sign fully observes the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

It would help me advertise, bringing more consumers to the Oval. This helps the small business owner.

4. The proposed use would not diminish surrounding property values:

The sign is tastefully done and within reasonable size. There will be no impact on the value of surrounding properties. However the ability to draw customers into the store will only add to the value of surrounding properties.

5. Denial of the variance would result in unnecessary hardship.

A). “Unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area:

i). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The ordinance requires signs in the Oval are to fit in with the character of the area. The proposed sign does that. Additionally, the maximum signage allowed (8.25 SF) will only be exceeded by less than 4 SF. That is extremely minor. There will be no impact on the public purposes of the ordinance.

ii) and; The proposed use is a reasonable one because:

Signage is necessary for all businesses for visibility. The proposed size is not unreasonable.

B) If the criteria in Section (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance. A variance is therefore necessary to enable reasonable use of the property because:

The specific business location is an extremely narrow storefront of only 11’2”. This is a special condition and unique aspect of this property that unduly restricts signage if the ordinance is strictly followed.

The Board proceeded to discuss the criteria for a variance.

1. Would granting the variance not be contrary to the public interest?

Z. Tripp – yes. It would not do harm or violate the basic zoning objective to a marked degree. The sign is proportional and the design fitting with the character of the Oval.

K. Taylor – yes. The sign is in line with the rest of the Oval. A lot of the signs have been grandfathered, but this sign is in good taste.

M. Thornton said it was in good taste and didn’t seem disproportional when he looked at it.

F. Seagroves agreed. It goes along with what she is doing there. The handbook mentions public benefit and he didn’t see that the public would benefit if they denied the request. He would say yes to this question.

2. Could the variance be granted without violating the spirit of the ordinance?

K. Taylor – yes. It could be granted without violating the spirit of the ordinance.

M. Thornton – certainly.

Z. Tripp – yes. Even though it is larger than 8.25 SF, it fits in the Oval and is proportional to the building. He paraphrased from the Ordinance that signs in the Oval Subdistrict should be compatible with the Oval, it must be proportional, not obscure windows or other architectural details, and has to fit within the signboard area of the building. It does.

F. Seagroves referred to the Handbook which mentions threat to health, safety and general welfare. He didn’t see any of that would occur.

3. Could the variance be granted without diminishing the value of abutting property?

M. Thornton – yes. He didn't see anything that would degrade any other property.

K. Taylor agreed. It was within the same criteria of what the Oval had.

Z. Tripp agreed. He didn't see it would lessen the surrounding properties.

F. Seagroves agreed. He didn't think it would devalue the abutting properties.

4. Would granting the variance do substantial justice?

Z. Tripp didn't think the public would gain by denying. It does meet the signage requirements of the Sub Oval district, as he had referred to before.

M. Thornton said justice for both parties.

K. Taylor said yes.

F. Seagroves agreed it would do substantial justice. He commented that sometimes he feels signs are too small and drivers trying to read them could cause an accident. That was a dangerous area with cars coming into the Oval. It was not a reason to punish the applicant. A larger sign would help.

5. Would denial of the variance result in unnecessary hardship taking the following into consideration:

A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;

ii. The proposed use is a reasonable one.

B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Z. Tripp said he found this question difficult to answer. It was reasonable. Its character fit well with the Oval and it met the requirements of the Oval Subdistrict. It only took up 40% of the linear frontage of the storefront with a visible height of 2'5" which fit within the boards, but he struggled with whether there was anything unique about this property that separated it from other properties. The applicant did a good job of trying to get close to the requirement of 8.25 SF. Her sign was approximately a 1/2 ratio and to maintain that ratio it would be 2-1/32 by 4- 1/16. The applicant was at 2 ½ by 4.10 ", so they were talking about less than a foot off. The question was whether it would be hardship to ask the applicant to stay within the requirements. He drives through the Oval twice a day. That property was unique when going westbound because you can't see across the Oval. Going around the corner there is a tree and the applicant is blocked. One could almost say that about a lot of the properties on the Oval, because you are looking for traffic and not across the Oval at stores. What was unique was that this is two (2) units in a very narrow building. To keep that proportionally, you keep getting smaller. Even though oversized, the sign was still pretty small and the fact that she was keeping it in the window currently showed how reasonable it was. Paraphrasing from the Handbook, all ordinances are a hardship but shared equally by everyone. Looking around the Oval and how much linear frontage most signs take up, it was probably more than 40% of the linear frontage and most two (2') feet high. Hardship would be applying strict criteria to this and not applying it equally to all the storefronts. It was a hardship based on the fact that the rest of the Oval wasn't in strict conformance and not requiring the rest of the Oval to be in strict conformance.

K. Taylor said the building was unique because in the 1800s and 1900s it was a fire station. The Ordinance was there to help business in the center of town. Hardship was the traffic. As Zach stated, the sign was a little big, but it was close and he believed the Board is there to help.

M. Thornton said he was walking right in front of the store and it was not blatantly obvious. He had no problem with it being a little bit oversized and he would not want to be driving on the Oval looking for a sign any smaller.

F. Seagroves thought there was a hardship. He measured the frontage, at 11' 9", which was not much frontage. The handbook said 75% of the frontage. With his math, she could have 9.9 SF which was a little closer to the 11SF. While it was covering the window, it was not covering the whole storefront. The applicant already had the sign made. To make it comply she would have to cut off the bottom. J. Lazzaro said she would have to completely reconstruct it. The bottom portion was her name.

F. Seagroves called for a vote.

1. Would granting the variance not be contrary to the public interest?

Z. Tripp – yes K. Taylor – yes M. Thornton – yes F. Seagroves - yes

2. Could the variance be granted without violating the spirit of the ordinance?

K. Taylor – yes M. Thornton – yes Z. Tripp – yes F. Seagroves - yes

3. Would granting the variance do substantial justice?

M. Thornton – yes K. Taylor – yes Z. Tripp – yes F. Seagroves - yes

4. Could the variance be granted without diminishing the value of abutting property?

K. Taylor – yes Z. Tripp – yes M. Thornton – yes F. Seagroves - yes

5. Would denial of the variance result in unnecessary hardship taking the following into consideration:

A) i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property;

ii. The proposed use is a reasonable one.

B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

M. Thornton – yes Z. Tripp – yes K. Taylor – yes F. Seagroves - yes

F. Seagroves asked if there was a motion to approve case #2014-04, a request for a variance.

K. Taylor made the motion to approve Case #2014-04.

M. Thornton seconded the motion.

Final Vote:

Z. Tripp – yes K. Taylor – yes M. Thornton – yes F. Seagroves - yes

Case #2014-04 was approved by 4 – 0 vote.

F. Seagroves reminded the applicant of the thirty (30) day appeal period.